

*Serial No. 10/772,554  
Amendment dated June 16, 2005  
Reply to final Office Action of April 19, 2005*

### REMARKS

With this paper, claims 1, 5, 14, and 17 are amended and claims 4 and 16 are canceled. Claims 1-3, 5-15 and 17-18 are pending. Reconsideration of this application, as amended, is requested.

Independent claims 1 and 14 have been amended to better clarify the various directions that the unfinished bag is moving during various steps. Additionally, the claims have further been amended to clarify when the bag is stationary and when it is moving continuously.

#### 112 Rejections

Claims 1-18 were rejected under 35 U.S.C. 112, second paragraph, for the recitation of "while the fin is moving". Examiner Desai is thanked for the clarification of this language, in the telephone conference of June 7, 2005. Claims 1 and 14, the independent claims, have been amended to reword the phrase to be, in general 'while the fin is being moved' (however, the actual recitation is now "while the unfinished base portion and the fin are being moved").

Applicants believe the amended addresses the rejection, and ask that it be withdrawn.

#### 103 Rejections

Claims 1-11 were rejected under 35 U.S.C. 103(a) as being unpatentable over Finke et al., U.S. Patent No. 3,266,387 in view of Achelpohl, U.S. Patent No. 3,853,040. Applicants disagree.

Amended claims 1-11 are not obvious over Finke et al. in view of Achelpohl. Finke et al. provides a bag, provides a bottom fin, folds down the fin, and then folds in triangular pockets to form a flat bottom. However, the method of pending claim 1 differs from the method of Finke et al. at least because the pending method has the bag moving during the fin sealing step. The Office Action turns to Achelpohl for the teaching of a continuous heat sealing device to seal the flat bottom bag.

It has been discussed before that Finke et al. covers the bags in a stepwise manner, so that the various steps are performed on the bag while the bag is at a standstill. Finke et al. does not disclose or suggest moving the bags, either in a transverse or a longitudinal direction, during the various process steps. In Finke et al., the bags are stationary during the process steps.

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Achelpohl discloses a process where there is no intermittent movement of the bags; rather, there is no standstill of the bags or the tools (at the processing stations). The bags are constantly moving during the process steps.

Applicants contend that it would not have been obvious to one skilled in the art to combine a process that is completely stationary (i.e., Finke et al.) and combine it with a process that has constant movement (i.e., Achelpohl).

Even if combined, however, the pending claims have been amended to better define the direction of movement during various steps of the invention, and the combination of Finke et al. with Achelpohl does not arrive at the pending claims.

The Office Action points to belt conveyors 22, 23, 22', 23' for the teaching of a continuous heat-sealing device for sealing a fin. Applicants disagree with this characterization. Conveyors 22, 23, 22', 23' move the bag through radiant heaters 24, 25, 24', 25' of a welding device 15, which seal the folded ends to the longitudinal seam welds. This is not sealing of a fin that extends in the transverse direction of the bag, while the bag is moving in the transverse direction. Rather, the deflecting plates 21, 21' fold the two folded ends from a flattened position, to an upright position, and then the welding device 15 seals them.

Additionally, it would not have been obvious to one skilled in the art to pick and choose individual elements from the two cited references in order to obtain the series of steps recited, and movement in the direction recited, as in the pending claims. In the amended pending claims, it is clarified that the unfinished base portion is opened and the gussets are extended while the unfinished base portion is stationary. A crease is formed while the base portion is moving in the transverse direction. The fin is formed while the base portion is moving in the transverse direction. The ends are folded while moving in the longitudinal direction. In the claimed method, the base portion, and bag, stop and move in specific directions at various process steps; these movements and directions are not obvious based on the cited art.

At least for these reasons, Applicants contend that claims 1-11 are not obvious over Finke et al. in view of Achelpohl, and withdrawal of the rejection is requested.

Claims 12-18 were rejected under 35 U.S.C. 103(a) as being unpatentable over Finke et al. and Achelpohl in view of Wood, U.S. Patent No. 5,165,799. Claim 1, from which claims 12-13 depend, has been amended to better clarify the distinction between the present invention and

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Finke et al., Achelpohl and Wood. Claim 14 has been amended to better clarify the distinction between the present invention and Finke et al., Achelpohl and Wood.

As discussed above, claims 1-11 are patentable over Finke et al. and Achelpohl. The claims are also patentable over Finke et al. and Achelpohl when combined with Wood. The teachings and deficiencies of Wood have been discussed previously.

Applicants contend that even when combined, Finke et al., Achelpohl and Wood do not teach, suggest, or lead one to the methods of the pending claims.

At least for these reasons, claims 12-18 are patentable over Finke et al., Achelpohl and Wood, and withdrawal of the rejection is requested.


#### SUMMARY

In view of the above amendments and remarks, Applicants respectfully request a Notice of Allowance. If the Examiner believes a telephone conference would advance the prosecution of this application, the Examiner is invited to telephone the undersigned at the below-listed telephone number.

Respectfully submitted,

MERCHANT & GOULD P.C.  
P.O. Box 2903  
Minneapolis, Minnesota 55402-0903  
(612) 332-5300

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Mara E. Liepa  
Reg. No. 40,066

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